

1 BUCHALTER NEMER  
2 A Professional Corporation  
3 PETER G. BERTRAND (#87883)  
4 RICHARD C. DARWIN (#161245)  
5 333 Market Street, 25th Floor  
6 San Francisco, California 94105-2126  
7 Telephone: (415) 227-0900  
8 Facsimile: (415) 227-0770  
9 rdarwin@buchalter.com

10 Attorneys for Defendant  
11 COMERICA BANK

12  
13  
14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

16 ROBERT PRITIKIN, et al.,

CASE NO. CV 09-03303 JF

17 Plaintiffs,

18 v.  
19  
20 ERRATA TO DEFENDANT COMERICA  
21 BANK'S REPLY BRIEF IN SUPPORT OF  
22 MOTION TO DISMISS

23 COMERICA BANK, et al.,

Date: October 30, 2009

24 Defendants.

Time: 9:00 a.m.

Dept.: Honorable Jeremy Fogel

25 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

26 PLEASE TAKE NOTICE THAT Defendant Comerica Bank's Reply Brief in Support  
27 of Motion to Dismiss contains the following errors:

28 Page 3, lines 7-8: "*Ashcroft v. Iqbal*, \_\_\_\_ U.S. \_\_\_, 129 D. Ct. 1937 (2009)." **should**  
29 **be** "*Ashcroft v. Iqbal*, 556 U.S. \_\_\_, 129 S. Ct. 1937 (2009)."

30 Page 3, line 28: "\_\_\_\_ 129 S.Ct. at \_\_\_\_" **should be** "129 S.Ct. at 1953."

31 Page 4, line 11: "1951, 1954" **should be** "1952, 1954."

32 Page 4, line 16: "129 S.Ct. at \*\*1944-45" **should be** "129 S.Ct. at 1949."

33 Page 5, line 20: "Oppo. Page 17:3-7." **should be** "Opp. at 17:3-7."

34 Page 5, line 25, footnote 3: "Oppo. P. 19:16-18" **should be** "Opp. at 19:16-18."

35 Page 6, lines 26-28, footnote 6: "Plaintiffs' assertion that many of the exhibits

1 Comerica's RJN do not identify Comerica as a specific target misses the point in that there were  
 2 on notice of Four Star's wrongdoing and their injury. Moreover, a Ponzi scheme, by definition,  
 3 involves the movement of money. Thus, one of the first places one would look to analyze any  
 4 such scheme would be the banking records. Therefore, Plaintiffs had notice the wrongdoing,  
 5 injury and identity of possible defendants over six years before this action is filed.” **should be**  
 6 “Plaintiffs’ assertion that many of the exhibits Comerica’s RJN do not identify Comerica as a  
 7 specific target misses the point in that they were on notice of Four Star’s wrongdoing and their  
 8 injury. Moreover, a Ponzi scheme, by definition, involves the movement of money. Thus, one of  
 9 the first places one would look to analyze any such scheme would be the banking records.  
 10 Therefore, Plaintiffs had notice of the wrongdoing, injury and identity of possible defendants over  
 11 six years before this action was filed.”

12 Page 7, line 18: “*Fox*, 35 Cal.4<sup>th</sup> at 921” **should be** “*Fox*, 35 Cal.4<sup>th</sup> at 808.”

13 Page 7, line 19: “(emphasis in original)” should be deleted.

14 Page 11, lines 22-23: “*Grimmett v. Brown*, 75 F.3d 506, 512 (9<sup>th</sup> Cir. 1995)” **should be**  
 15 “*Grimmett v. Brown*, 75 F.3d 506, 510 (9<sup>th</sup> Cir. 1995).”

16 Page 12, line 3-4: “*Grimmett*, 75 F.3d at 512” **should be** “*Grimmett*, 75 F.3d at 510.”

17 Page 13, line 5: “Opp., p. 25:19-22.” **should be** “Opp. at 25:19-22.”

18 Page 13, line 20: “Opp., p. 25:19-22.” **should be** “Opp. at 25:19-22.”

19 Page 14, line 27, footnote 9: “Opp., p. 8, n.4” **should be** “Opp. at 8:25-28, n.4”

20 Page 17, lines 10-11: “*Cashman v. Astrue*, 2008 WL 2588711 (D. Hawaii, June 27,  
 21 2008)” **should be** “*Cashman v. Astrue*, No. 07-00560 ACK-BMK, 2008 WL 2588711(D. Hawaii,  
 22 June 27, 2008).”

23 Page 19, lines 10-11: “(quoting *Applied Equipment* …” **should be**, “quoting *Applied*  
 24 *Equipment*…”

25 Page 20, line 5: “[CITE??]” **should be** “*Casey*, 127 Cal.App.4th at 1153.”

26 Page 22, line 21-22: “See, § 104 of PSLRA” **should be** “See, PSLRA, Pub.L. No. 104-67,  
 27 § 104, 109 Stat. 737, 757; 15 U.S.C. § 78t(e), 15 U.S.C. § 78u(d).”

28 Page 22, line 28: Footnote 13 should be deleted.

1                   Page 24, line 12 through page 25, line 6: Both paragraphs should be deleted.  
2  
3

4                   DATED: October 19, 2009  
5  
6

BUCHALTER NEMER  
A Professional Corporation  
7  
8

9                   By: \_\_\_\_\_ /s/ Richard C. Darwin  
10                  RICHARD C. DARWIN  
11                  Attorneys for Defendant  
12                  COMERICA BANK  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28